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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,049	07/25/2001	Andreas Dieberger	YOR9-2001-0385 (8728-520)	6021
46069 7590 10/05/2009 F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797				
EXAMINER				
VAN BRAMER, JOHN W				
ART UNIT		PAPER NUMBER		
3622				
MAIL DATE		DELIVERY MODE		
10/05/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

***Advisory Action
Before the Filing of an Appeal Brief***

Application No.

09/915,049

Applicant(s)

DIEBERGER ET AL.

Examiner

JOHN VAN BRAMER

Art Unit

3622

–The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

THE REPLY FILED 01 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-6, 8-16 and 18-20.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: The applicant argues that Boyd does not teach conditions for determining whether to prevent the display of content. The examiner has already stated that Boyd does not specifically state that rules are used for preventing the display of a second portion of content, but that Boyd does teach allowing advertisers to place condition on when an ad is displayed and thus when an ad is not to be displayed. The teachings of an advertiser rule that prevents the display is discloses as part of a 35 USC 103 obviousness rejection. The applicant argues that Boyd does not teach determining a variable monetary charge based on the content displayed and a combination of values associated with each of the satisfied rules. However, in rejecting claim 14 the examiner has agreed that Boyd does not specifically state a variable monetary charge, but that it would be obvious one of ordinary skill in the art at the time the invention was made that the advertiser would charge more for the delivery of more narrowly targeted ads than they would charge for broadly targeted advertisements, and that Boyd discloses determining a strength of match between the advertisement profile and the customer profile. Once again the limitation has been rejected based upon a 35 USC 103 obviousness rejection. The applicant argues that the scope of claim 20 requires that at least two device parameters currently satisfy the triggered rule. The examiner can find no such limitation in the claim. The fee is determined according to one or more (at least one) parameter upon execution of a rule for content display. Only one rule is required to be triggered and the claim is broad enough to allow for one fee based on one parameter for the one rule and only one RFID provided to one spectator is required to be detected. The applicant argues that claim 20 requires that two ads are displayed simultaneously. However, the examiner can find no such limitation in the claim.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/John Van Bramer/
John Van Bramer
Examiner, Art Unit 3622

Continuation of 13. Other: There are no proposed amendments to the claims, thus the pending claims are still claims 1-6, 8-16, and 18-20 and stand rejected based upon the final action dated July 1, 2009.